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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

In re the Application of: **Hisashi NAKAMURA et al.**

Group Art Unit: **2675**

Serial No.: **10/073,959**

Examiner: **Ming Hun LIU**

Filed: **February 14, 2002**

Confirmation No.: **8711**

For: **LIQUID CRYSTAL PROJECTOR COOLING SYSTEM DEPENDENT ON AIR
PRESSURE AND TEMPERATURE VARIABLES (AS AMENDED)**

Attorney Docket Number: **042288**

Customer Number: **38834**

SUBMISSION OF APPEAL BRIEF

Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

December 15, 2004

Sir:

Applicants submit herewith an Appeal Brief in the above-identified U.S. patent application.

Attached please find a check in the amount of \$500.00 to cover the cost for the Appeal Brief.

If any additional fees are due in connection with this submission, please charge our Deposit Account No. 50-2866.

Respectfully submitted,

WESTERMAN, HATTORI, DANIELS & ADRIAN, LLP


Michael J. Caridi

Attorney for Appellants

Registration No. 56,171

Telephone: (202) 822-1100

Facsimile: (202) 822-1111

MJC/cas

U.S. Patent Application Serial No.: 10/073,959

Appeal Brief filed December 15, 2004

Attorney Docket No.: 042288

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

APPEAL BRIEF FOR THE APPELLANT

Ex parte Hisashi NAKAMURA et al. (applicant)

**LIQUID CRYSTAL PROJECTOR COOLING SYSTEM DEPENDENT ON AIR
PRESSURE AND TEMPERATURE VARIABLES (AS AMENDED)**

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Examiner: **Ming Hun LIU**

Michael J. Caridi
Registration No. 56,171
Attorney for Appellants

WESTERMAN, HATTORI,
DANIELS & ADRIAN, LLP
1250 Connecticut Avenue NW, Suite 700
Washington, D.C. 20036
Tel (202) 822-1100
Fax (202) 822-1111

Date: **December 15, 2004**

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BRIEF ON APPEAL

(I) REAL PARTY IN INTEREST

The real party in interest is **SANYO ELECTRIC CO., LTD.**, by an assignment recorded in the U. S. Patent and Trademark Office on **February 14, 2002**, at Reel **012608**, Frame **0707**.

(II) RELATED APPEALS AND INTERFERENCES

There are no other appeals or interferences known to appellant, appellant's legal representative, or assignee which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(III) STATUS OF CLAIMS

Claims 2 and 3 are pending. Claims 2 and 3 stand rejected. No other claims are pending. No other claims have been allowed.

(IV) STATUS OF AMENDMENTS

No Amendments have been filed subsequent to final rejection.

(V) SUMMARY OF CLAIMED SUBJECT MATTER

The subject matter of claim 2 is set forth at page 3, line 19 to page 4, line 3 of the specification. The invention is a liquid crystal projector with a cooling fan (Figure 1, Ref. No. 6), a temperature sensor (Figure 1, Ref. No. 2) for detecting internal temperature of the liquid crystal projection (Figure 3, Step 1), an air pressure sensor (Figure 1, Ref. No. 3) for detecting outside air pressure (Figure 3, Step 2), a driving circuit (Figure 1, Ref. No 4) of the cooling fan, storage means (Figure 1, Ref. No. 1a) for storing a control table representing the relationship between the temperature detected by the temperature sensor and the value of a control voltage for the driving circuit of the cooling fan for each of a plurality of classes into which the outside air pressure is divided, (Figure 3, step 3; act described at page 6, line 20 to page 7, line 1), and means for

determining the value of the control voltage (Figure 1, Ref. No. 1) for the driving circuit of the cooling fan on the basis of the control table corresponding to the class to which the outside air pressure detected by the air pressure sensor belongs and the temperature detected by the temperature sensor and outputting a voltage signal corresponding to the determined control voltage valve to the driving circuit of the cooling fan (Figure 3, step 4; act described at page 6, line 20 to page 7, line 4).

Claim 3 is an independent claim, the invention of which is also set forth in the specification as described for claim 2 above. Claim 3 differs in that it specifically utilizes a storage device (Figure, 1, Ref. No. 1a) as the storage means and a circuit (Figure 1, Ref. No. 1) as a means for determining the value of the control voltage. The description of claim 3 is set forth at page 3, line 15 to page 4, line 3.

(VI) GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

Claims 2 and 3 stand rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,322,218 to Sugawara et al.

(VII) ARGUMENT

Claims 2 and 3 are not anticipated by U.S. Patent No. 6,322,218 to Sugawara et al. (hereinafter “Sugawara”) because the reference fails to set forth a required element present in both claims. For the purpose of distinguishing claims 2 and 3 from Sugawara, the element is common to both claims. Hence, the following argument applies to both claims equally, and Appellants submit the claims rise or fall together.

MPEP § 2131 sets forth the presently accepted standard for determining whether a reference anticipates the claims of an application within the meaning of 35 U.S.C. § 102. The MPEP quotes Federal Circuit decision, Verdegna Bros. v. Union Oil Co. of California, 814 F.2d 628, 631, 2 USPQ 2d 10501, 1053 (Fed. Cir 1987) “A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference e.g.” and Federal Circuit decision Richardson v. Suzuki Motor Co., 868 F.2d

1226, 1236, 9 USPQ 2d 1913, 1920 (Fed. Cir. 1989), “The identical invention must be shown in as complete detail as is contained in the claim.” The Examiner is to apply this well known standard when evaluating a reference to determine if the examined claim reads thereon.

In the present instance, the Examiner has not considered the limitation of claims 2 and 3 which state:

...a control table representing the relationship between the temperature detected by the temperature sensor and the value of a control voltage for the driving circuit of the cooling fan for each of a plurality of classes into which the outside air pressure is divided...

The Final Office Action issued April 19, 2004 responds to Applicants’ earlier Amendment setting forth this limitation as a distinguishing feature from Sugawara. Page 2, section 1 of the Office Action states:

The distinction that the Applicant wishes to establish lies in the precise format in which the reference table is drafted. The Examiner respectfully disagrees. On column 8, lines 30-35 Sugawara states that “first the temperature... is detected...then substantially at the same time, the output of the barometer is taken... and a temperature compensation value is acquired from a table of air pressure versus temperature.” In another words (sic), a temperature compensation is generated according to an air pressure class. And from the remainder of flow chart 4, the temperature adjustment is made with the fan according to the temperature and pressure readings.

Appellants do submit that the distinction between the reference tables is the element present in claims 2 and 3 that is not in Sugawara. The Examiners’ response sets forth a recitation of Sugawara’s table but not the table as claimed by Appellant. As is set forth below, the table as required in claims 2 and 3 of the present invention is completely separate and distinct from that of Sugawara.

Appellants’ claimed control table houses temperature to control voltage for a determined air pressure. There are three variables required in the table, temperature, control voltage and air

pressure. As set forth in the element it can be understood that, if temperature is 'x' and air pressure is 'y', then the control value is 'z'. See further, page 5, lines 15-22 of the specification.

The table from Sugawara which the Examiner relies on is a distinctly different table. The table of Sugawara is for obtaining a temperature compensation value based on air pressure. Control voltage variables are not utilized in the table. As is disclosed at figure 4 and column 8, line 33 to column 9, line 3 of Sugawara, the air pressure is utilized to determine an adjustment value for temperature. Hence, Sugawara detects the air pressure (step 10, Fig. 4), and utilizes a table of temperature compensation value T_0 to air pressure to realize a temperature compensation value, (step 11, Fig. 4). In other words, for example if air pressure is 740 mm Hg then temperature compensation value may be -2°C . This temperature compensation value is then added to the detected temperature to obtain a corrected temperature t_c (step 2, Fig. 4). Adjustments are then made based on the corrected temperature, t_c (steps 3-9, Fig. 4).

There is no table stored in a storage device or means in Sugawara which represents the three variables, temperature to air pressure to control voltage. There is only a table which represents air pressure to temperature compensation value. Sugawara, therefore, fails to teach a required element of the claimed invention, and cannot be anticipatory prior art within the meaning of 35 U.S.C. § 102.

For at least the foregoing reasons, the honorable Board is respectfully requested to reverse the rejection maintained by the Examiner.

U.S. Patent Application Serial No.: 10/073,959

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(VIII) CLAIM APPENDIX

In the event this paper is not timely filed, appellants hereby petition for an appropriate extension of time. The fee for any such extension may be charged to our Deposit Account No. 50-2866, along with any other additional fees which may be required with respect to this paper.

Respectfully submitted,

WESTERMAN, HATTORI, DANIELS & ADRIAN, LLP

A handwritten signature in black ink, appearing to read "Michael J. Caridi", is written over a horizontal line.

Michael J. Caridi

Attorney for Applicants

Registration No. 56,171

Telephone: (202) 822-1100

Facsimile: (202) 822-1111

MJC/cas